

## STATEMENT OF FACTS

On January 6, 2021, your affiant, Mustafa Kutlu, was on duty and performing my official duties as a Special Agent with the Federal Bureau of Investigation ("FBI"). Specifically, I am currently tasked with investigating criminal activity in and around the Capitol grounds. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of federal criminal laws. The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

On January 11, 2021, W-1 (“IT”), informed the FBI that an individual by the name of James BONET (“BONET”) was present inside the U.S. Capitol on January 6, 2021. IT has mutual friends with BONET and provided your affiant with links to two videos on what IT claimed was BONET’s Facebook account. The videos place the individual who recorded the videos on the Capitol grounds. According to IT, some of the videos on BONET’s Facebook account were deleted after posting, including one that shows BONET smoking what appears to be a marijuana cigarette inside the U.S. Capitol.

Through legal process, your affiant has since confirmed that this Facebook page is registered to BONET using a phone number that your affiant found to also be associated with BONET in law enforcement databases. According to W-1, BONET resides in Glen Falls, New York, which was also confirmed by your affiant through law enforcement databases.

FBI agents obtained BONET’s vehicle registration information from law enforcement databases. From that information, your affiant obtained license plate reader (“LPR”) “hits” for BONET’s vehicle’s license plate. LPR hits confirmed that BONET’s vehicle traveled southbound on Interstate 95 late in the evening on January 5, 2021 through at least Baltimore, Maryland. LPR hits then show BONET’s vehicle returned northbound on Interstate 95 through Baltimore and then eventually to Albany County, New York on Interstate 87 all on January 7, 2021. Your affiant is not aware of any LPR hits from the District of Columbia or any other LPR hits on January 6, 2021.

Your affiant also obtained a cell phone screen-captured video recording through an initially anonymous submission to the FBI showing BONET’s Facebook page from January 6, 2021. The screen recording included several videos (including the two provided by W-1) corroborating the information provided by W-1. Follow-up investigation revealed that the screen-captured video recording was submitted by co-workers of BONET.

On January 21, 2021, an FBI agent interviewed one co-worker of BONET, W-2. W-2 reported that BONET is a shift manager of W-2’s place of employment in Saratoga Springs, New York (less than 20 miles from where BONET resides). W-2 relayed that BONET openly talks about government conspiracy theories at work and tries regularly to convince W-2 and ITs other co-workers to subscribe to those theories, including the conspiracy theory that the 2020 Presidential Election was “stolen.” W-2 reported that BONET traveled to Washington, D.C. sometime in November, 2020, to protest the results of the Presidential Election.<sup>1</sup> W-2 stated that IT and ITs other co-workers remarked that they were afraid BONET would contract COVID-19 at that protest and spread it to them because they saw photographs of BONET on BONET’s Facebook account of BONET not wearing a facemask at the November protest.

W-2 further explained that he is in a group-chat with other co-workers, and on the evening of January 6, 2021, W-3, who is a co-worker in the group-chat, sent a screen-recorded video of BONET to the group. The video showed BONET smoking what W-2 called a “joint” inside the

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<sup>1</sup> Your affiant notes that on November 14, 2020, there was a large protest in Washington, D.C. called the “Million MAGA March,” which was aimed at protesting the results of the 2020 Presidential Election. Your affiant has not yet confirmed whether BONET attended this specific protest, but it was widely attended by individuals from several states who claimed the 2020 Presidential Election was stolen.

U.S. Capitol. W-2 and his co-workers discussed whether they should report BONET to the FBI; they ultimately submitted separate tips to the FBI. The FBI agent showed W-2 the screen-recorded video that was sent in to the FBI, and W-2 confirmed that BONET was the man smoking on the video inside the Capitol building. W-2 reported that BONET returned to his and W-2's place of employment on January 8, 2021.

Your affiant has included several screenshots from the aforementioned screen-recorded Facebook video below. The first video is titled "Smoking at the capital building" (sic). What appears to be a cell phone camera is facing BONET in a "selfie" style. In the video, BONET says "Capitol building smoking with all my people!" and then pans the camera to show several other individuals standing around BONET. That screenshot can be found below:



An additional video from this screen recording is taken from inside the Crypt of the Capitol, where BONET is filming other unauthorized persons celebrating and chanting inside the Crypt. BONET can be heard responding to the chant of “whose house?” with “our house!” a few times. A screenshot of that video can be found below:



Another video from that screen recording is titled “Made it in.” Based off the time stamps of the posts, it appears that this video was posted before the two videos seen above. BONET can be heard saying “We made it in the building bitches! We’re taking it back! We are taking it back, we made it in the building!” BONET then walks up a small flight of stairs toward a door to the Capitol alongside other unauthorized individuals. Two screenshots from this video can be found below, including one where BONET turns around the cell phone camera to again capture himself:



BONET also posted a photograph prior to the videos seen above. The photograph depicts what appears to be the covered scaffolding of the Capitol, along with several other unauthorized individuals. A “TRUMP” flag is featured prominently in the photograph, which BONET titled “Right in the doorsteps this is our house we will take it back.” The photograph can be found below:





Similarly, BONET posted a video timestamped before the videos and photograph above, where he is walking toward the Capitol, with yet another “TRUMP” flag flying in front of him. The video is titled “Taking our country back.” A screenshot of that video can also be found below:



Based on the foregoing, your affiant submits that there is probable cause to believe that James BONET violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any

building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Your affiant submits there is also probable cause to believe that James BONET violated 40 U.S.C. § 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.



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Mustafa Kutlu  
Special Agent  
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 25<sup>th</sup> day of January 2021.



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ZIA M. FARUQUI  
U.S. MAGISTRATE JUDGE